

PLAINTIFFS' EXHIBIT B

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 RICHARD KADREY, SARAH SILVERMAN,
13 CHRISTOPHER GOLDEN, TA-NEHISI
14 COATES, JUNOT DÍAZ, ANDREW SEAN
15 GREER, DAVID HENRY HWANG,
MATTHEW KLAM, LAURA LIPPMAN,
RACHEL LOUISE SNYDER, JACQUELINE
WOODSON, AND LYSA TERKEURST,

Case No. 3:23-cv-03417-VC

**PLAINTIFF JUNOT DIAZ'S
RESPONSES AND OBJECTIONS TO
DEFENDANT META PLATFORMS,
INC.'S THIRD SET OF REQUESTS FOR
ADMISSION**

20 | PROPOUNDING PARTY: Defendant Meta Platforms, Inc.

21 | RESPONDING PARTY: JUNOT DIAZ

22 | **SET NUMBER:** Three (3)

1 *4 (N.D. Cal. Mar. 20, 2012)). Plaintiff further objects to this Request as an improper use of
 2 requests for admissions under Federal Rule 36 because it reflects an attempt by Meta to gather
 3 evidence regarding a new topic and non-defendant, rather than an effort to narrow the issues for
 4 trial. “The goal of Requests for Admission is to eliminate from the trial issues as to which there is
 5 no genuine dispute and, therefore, Requests for Admissions are not intended to be used as means
 6 of gathering evidence.” *Bovarie v. Schwarzenegger*, No. 08CV1661 LAB NLS, 2011 WL 719206,
 7 at *6 (S.D. Cal. Feb. 22, 2011) (*citing Google Inc. v. American Blind & Wallpaper Factory, Inc.*,
 8 2006 WL 2578277 (N.D. Cal. Sept. 6, 2006)). To discover new information, parties must use other
 9 methods, like depositions, document requests, or interrogatories. *See, e.g., Republic of Turkey v.*
 10 *Christie’s, Inc.*, 326 F.R.D. 394, 399 (S.D.N.Y. 2018) (explaining that “[w]hile the basic purpose
 11 of discovery is to elicit facts and information and to obtain production of documents, Rule 36 was
 12 not designed for this purpose”) (quoting 7 Moore’s Federal Practice § 36.02[1]); *Spectrum*
 13 *Dynamics Med. Ltd. V. Gen. Elec. Co.*, 18CV11386VSBKHP, 2021 WL 735241, at *2 (S.D.N.Y.
 14 Feb. 25, 2021) (explaining that RFAs “are not designed to discover information like other
 15 discovery rules such as Rule 34” and excusing a party from responding where RFAs were
 16 “tantamount to contention interrogatories”). Plaintiff further objects to this Request as calling for
 17 legal analysis and a legal conclusion. Subject to and without waiver of the foregoing objections,
 18 no response is required; and to the extent one is required, Plaintiff lacks sufficient knowledge to
 19 either admit or deny this Request.

20 **REQUEST FOR ADMISSION 67:**

21 Admit that YOU have not granted the publishers of YOUR ASSERTED WORK(S) the right to
 22 license the ASSERTED WORK(S) as training data for LLMs.

23 **RESPONSE TO REQUEST NO. 67:**

24 Plaintiff objects to this Request as unreasonably cumulative of Requests for Admissions Numbers
 25 9, 10, and 11. *See e.g., Thorpe v. Hearn*, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5 (E.D.
 26 Cal. Mar. 28, 2022) (“Where requests for admission ... are unreasonably cumulative and

1 duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a)
 2 and are properly subject to objection.”) (internal citations omitted); *see also K.C.R. v. Cnty. of Los
 3 Angeles*, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014). Subject
 4 to and without waiver of the foregoing objections, Plaintiff admits that Plaintiff has entered into
 5 licensing agreements with Plaintiff’s publisher for the ASSERTED WORKS and directs Meta to
 6 the terms of such licensing agreements, which speak for themselves.

7 **REQUEST FOR ADMISSION 68:**

8 Admit that the publishers of YOUR ASSERTED WORK(S) do not possess the right to license the
 9 ASSERTED WORK(S) as training data for LLMs.

10 **RESPONSE TO REQUEST NO. 68:**

11 Plaintiff objects to this Request as unreasonably cumulative of Requests for Admissions Numbers
 12 9, 10, 11, and 69. *See e.g., Thorpe v. Hearn*, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5
 13 (E.D. Cal. Mar. 28, 2022) (“Where requests for admission ... are unreasonably cumulative and
 14 duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a)
 15 and are properly subject to objection.”) (internal citations omitted); *see also K.C.R. v. Cnty. of Los
 16 Angeles*, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014). Subject
 17 to and without waiver of the foregoing objections, Plaintiff admits that Plaintiff has entered into
 18 licensing agreements with Plaintiff’s publisher for the ASSERTED WORKS and directs Meta to
 19 the terms of such licensing agreements, which speak for themselves.

20 **REQUEST FOR ADMISSION 69:**

21 Admit that the publishers of YOUR ASSERTED WORK(S) would need YOUR permission to
 22 license the ASSERTED WORK(S) as training data for LLMs.

23 **RESPONSE TO REQUEST NO. 69:**

24 Plaintiff objects to this Request as vague and ambiguous as to the phrase, “YOUR permission.
 25 Plaintiff further objects to this Request because it is an incomplete hypothetical untethered to the
 26 facts of the case. *See, e.g., Buchanan v. Chi. Transit Auth.*, 2016 WL 7116591, at *5 (N.D. Ill. Dec.

1 7, 2016) (“Since requests to admit ‘must be connected to the facts of the case, courts do not permit
 2 “hypothetical” questions within requests for admission.’”); *Fulhorst v. Un. Techs. Auto., Inc.*, 1997
 3 WL 873548, at *3 (D. Del. Nov. 17, 1997) (denying request “asking Plaintiff to admit to
 4 infringement in the context of the hypothetical use of its device”); Fed. R. Civ. P. 36 advisory
 5 committee’s note to 1946 amendment; *Universal Dyeing & Printing, Inc. v. Zoetop Bus. Co.*, No.
 6 CV223741FLARAOX, 2023 WL 9004983, at *21 (C.D. Cal. June 23, 2023) (denying motion to
 7 compel where the Request for Admission was a hypothetical not tied to the facts at issue and an
 8 affirmative response would not reduce the burden on a jury at trial) (*citing Advantus, Corp. v.*
 9 *Sandpiper of Cal., Inc.*, No.: 19cv1892-CAB (NLS), 2021 WL 2038318, at *2 (S.D. Cal. May 21,
 10 2021) and *Apple Inc. v. Samsung Elecs. Co.*, No. C 11-cv-1846 LHK (PSG), 2012 WL 952254, at
 11 *4 (N.D. Cal. Mar. 20, 2012)). Subject to and without waiver of the foregoing objections, Plaintiff
 12 admits this Request.

13 **REQUEST FOR ADMISSION 70:**

14 Admit that YOU have not granted another PERSON the right to license YOUR ASSERTED
 15 WORK(S) as training data for LLMs.

16 **RESPONSE TO REQUEST NO. 70:**

17 Plaintiff objects to this Request as unreasonably cumulative of Requests for Admissions Numbers
 18 9, 10, 11, 69, and 70. *See e.g., Thorpe v. Hearn*, No. 219CV1974KJMKJNP, 2022 WL 902891, at
 19 *5 (E.D. Cal. Mar. 28, 2022) (“Where requests for admission … are unreasonably cumulative and
 20 duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a)
 21 and are properly subject to objection.”) (internal citations omitted); *see also K.C.R. v. Cnty. of Los*
 22 *Angeles*, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014). Subject
 23 to and without waiver of the foregoing objections, Plaintiff admits this Request.

24 **REQUEST FOR ADMISSION 71:**

25 Admit that YOUR ASSERTED WORK(S) are published.

26 **RESPONSE TO REQUEST NO. 71:**

1 Plaintiff admits that Plaintiff's ASSERTED WORKS are published.

2 **REQUEST FOR ADMISSION 72:**

3 Admit that YOUR ASSERTED WORK(S) were published before the acts of purported
4 infringement by Meta alleged in the COMPLAINT.

5 **RESPONSE TO REQUEST NO. 72:**

6 Plaintiff admits that Plaintiff's ASSERTED WORKS were published prior to Meta's infringement
7 as alleged in the operative complaint, and therefore admits this Request.

8 **REQUEST FOR ADMISSION 73:**

9 Admit that not all of the ASSERTED WORK(S) (including those of YOUR co-Plaintiffs) are of
10 the same genre.

11 **RESPONSE TO REQUEST NO. 73:**

12 Plaintiff objects to this Request as vague and ambiguous as to the term "genre," as the term is
13 subject to different interpretations. Subject to and without waiving the foregoing objection,
14 Plaintiff further states that Plaintiff lacks sufficient knowledge or information to respond to this
15 Request regarding the content of the ASSERTED WORKS of any other Plaintiff. Plaintiff therefore
16 lacks sufficient knowledge to either admit or deny this Request.

17 **REQUEST FOR ADMISSION 74:**

18 Admit that you are not aware of any agreements to assign rights in or to YOUR ASSERTED
19 WORK(S) that have not already been produced in this ACTION.

20 **RESPONSE TO REQUEST NO. 74:**

21 Plaintiff objects to this Request as vague and ambiguous as to the phrase "any agreements" and
22 "assign rights in or to." Plaintiff further objects to this Request as compound and ambiguous,
23 because it includes the disjunctive phrase, "in or to." "[R]equests for admissions should not contain
24 'compound, conjunctive, or disjunctive ... statements.'" *James v. Maguire Corr. Facility*, No. C
25 10-1795 SI PR, 2012 WL 3939343, at *4 (N.D. Cal. Sept. 10, 2012) (quoting *U.S. ex rel. England*
26 *v. Los Angeles County*, 235 F.R.D. 675, 684 (E.D. Cal. 2006)); *see also King v. Biter*, No.